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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,451	02/10/2004	Emad El Haje	644/37423	1690
7590 02/03/2006			EXAMINER	
Barnes & Thornburg Suite 900 750 17th Street, NW Washington, DC 20006			BUMGARNER, MELBA N	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,451

Applicant(s)

HAJE, EMAD EL

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 13, 15, 16, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Robertson (3,238,620). Robertson discloses a gum packing assisting tool comprising an endless strand of material 6 of flexible dense material which stretches and contracts, the length of the strand is less than the circumference of tooth and the strand tool has portions of its cross-section to be of circular configuration. The cross-sectional area of the tool throughout its length is substantially constant. The tool has a medicinal coating (column 3 line 1). Robertson discloses a method of packing soft tissue gum around a tooth (column 2 line 60). Robertson shows tools of at least one of different length, different thicknesses, and different shapes (column 2 line 48).

3. Claims 1, 3-5, 7-9, 11, 12, 15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Brosius (5,829,974). Brosius discloses a dental tool 20 comprising an endless strand of material 22 of flexible dense material which stretches and contracts, the length of the strand is less than the circumference of tooth and the strand tool has portions of its cross-section to be of circular configuration. Patentable weight is not given to the intended use of the tool, the tool has the capability to be used on a tooth as claimed. The cross-section of the tool varies along its length. The cross-sectional area of the tool has at least two widened portions, the ends

of which are spaced from each by an equal distance. A portion of the tool has two projecting tabs equally spaced from one another. Brosius shows tools of different sizes (column 3 line 49).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson in view of Brosius (5,829,974). Robertson discloses a tool that shows the limitations as described above; however, Robertson does not show the cross-section of the tool varying along its length. Brosius teaches a tool with an endless strand of material having the cross-sectional area of the tool varying along its length. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tool of Robertson to have the cross-sectional area of Brosius in order to be able to facilitate installation of the tool in view of Brosius.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson in view of Mahoney et al. (5,976,439). Robertson discloses a tool that shows the limitations as described above; however, Robertson does not show the tool being biodegradable. Mahoney et al. teach a gum packing assisting tool being biodegradable (column 5 line 22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tool of Robertson to be biodegradable as in Mahoney et al. in order to use a tool that is biocompatible and easier to use by eliminating steps in view of Mahoney et al.

7. Claim 22 is rejected as understood, under 35 U.S.C. 103(a) as being unpatentable over Robertson. Robertson discloses a method that shows the limitations as described above; however, Robertson does not show moving the tool in any particular fashion. It would have been obvious to one of ordinary skill in the art as to the movement along the tooth with the tool as disclosed by Robertson in order to place the tool down to the gum tissue.

Response to Arguments

8. Applicant's arguments filed November 23, 2005 have been fully considered but they are not persuasive. The prior art shows the structural limitations of the claims alone or in combination. Robertson shows portions of its (tool) cross-section to be of circular configuration (column 2 lines 47, 61). It is believed that the prior art "tool" is capable of functioning as intended, because the prior art the invention is described as an improvement over the practice of cords or string for the retraction material (column 2 line 4) and the present application also states in the specification that "[c]urrently this tamping is accomplished utilizing a round string-like **retraction cord**" (page 1 line 7). Brosius is combined with Robertson to show the variety of sizes and shapes, although it is noted that the applicant's specification also teaches that while the circular cross-sectional configuration is preferred, the cross-section could be oval, square or rectangular (page 8 line 4). It is noted that the applicant also shows removal of the tool (original claim 21); therefore, arguments as to its biodegradability are moot.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner
Primary Examiner